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OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 09/558,239 : ON PETITION
Filed: 24 April, 2000 :
Attorney Docket No. 80914/LPK :

This is a decision on the petition under 37 CFR 1.137(b),¹ filed on 24 November, 2003, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned on 13 June, 2003, for failure to file a proper reply to the final Office action mailed on 12 March, 2003, which set a three (3) month statutory period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 November, 2003.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

On 24 November, 2003, the present petition was filed, accompanied by a Request for Continued Examination (RCE). Petitioners request that an amendment after final rejection, filed on 17 October, 2003, be considered as the submission required by 37 CFR 1.114.

The application will be forwarded to Technology Center 1700 for consideration of the RCE and amendment.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



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